

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DALAEJA FOREMAN and BRYANT ARACENA

Plaintiffs,

-against-

**ANSWER TO
AMENDED
COMPLAINT**

21 Civ 3774

METROPOLITAN TRANSPORTATION
AUTHORITY, MTA P.O. RYAN McHALE, MTA
P.O. JOSEPH CASALE, MTA P.O. C. DOHERTY,
MTA SGT. CARL SULLIVAN, MTA SGT.
“JOHN” BURDI, MTA LT. “JOHN” PERRAULT,
THE CITY OF NEW YORK, and NYPD P.O.s
JOHN and JANE DOE #1-10, individually and in
their official capacities, (the names John and Jane
Doe being fictitious, as the true names are presently
unknown),

Defendants.

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Defendants Metropolitan Transportation Authority (“MTA”), MTA P.O. Ryan McHale, MTA P.O. Joseph Casale, MTA P.O. Conor Doherty, MTA Lt. Carl Sullivan, MTA Sgt. Ryan Burdi, and MTA Capt. Adam Perrault (collectively, “MTA Defendants”) by their attorneys, Hoguet Newman Regal & Kenney, LLP, for their Answer to the Amended Complaint, respectfully assert as follows:

1. Paragraph 1 states legal conclusions to which no response is required.
2. Paragraph 2 states legal conclusions to which no response is required.
3. Paragraph 3 states legal conclusions to which no response is required.
4. Paragraph 4 states legal conclusions to which no response is required.
5. Paragraph 5 states legal conclusions to which no response is required.

6. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6.

7. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7.

8. MTA Defendants admit the allegations in Paragraph 8 of the Complaint.

9. MTA Defendants admit the allegations in Paragraph 9 of the Complaint.

10. MTA Defendants deny the allegations in Paragraph 10 of the Complaint, but admit that defendants McHale, Casale, Doherty, Sullivan, Burdi and Perrault are employees of defendant MTA.

11. Paragraph 11 states legal conclusions to which no response is required; to the extent a response is required, MTA Defendants deny the allegations in Paragraph 11.

12. Paragraph 12 states legal conclusions to which no response is required; to the extent a response is required, MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Paragraph 13 states legal conclusions to which no response is required; to the extent a response is required, MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13.

14. MTA Defendants admit the allegations in Paragraph 14 of the Complaint.

15. Paragraph 15 states a conclusion of law to which no response is required.

16. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16.

17. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Complaint.

18. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in in Paragraph 18 of the Complaint.

19. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 of the Complaint.

20. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Complaint.

21. MTA Defendants deny the allegations in Paragraph 21 of the Complaint.

22. MTA Defendants deny the allegations in Paragraph 22 of the Complaint with regard to the individual MTA Defendants, and deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22 with regard to the City defendants.

23. MTA Defendants deny the allegations in Paragraph 23 of the Complaint.

24. MTA Defendants deny the allegations in Paragraph 24 of the Complaint

25. MTA Defendants deny the allegations in Paragraph 25 of the Complaint.

26. MTA Defendants deny the allegations in Paragraph 26 of the Complaint.

27. MTA Defendants deny the allegations in Paragraph 27 of the Complaint.

28. MTA Defendants deny the allegations in Paragraph 28 of the Complaint.

29. MTA Defendants deny the allegations in Paragraph 29 of the Complaint.

30. MTA Defendants deny the allegations in Paragraph 30 of the Complaint.

31. MTA Defendants deny the allegations in Paragraph 31 of the Complaint.

32. MTA Defendants deny the allegations in Paragraph 32 of the Complaint.

33. MTA Defendants deny the allegations in Paragraph 33 of the Complaint.

34. MTA Defendants deny the allegations in Paragraph 34 of the Complaint.

35. MTA Defendants deny the allegations in Paragraph 35 of the Complaint.

36. MTA Defendants deny the allegations in Paragraph 36 of the Complaint.

37. MTA Defendants deny the allegations in Paragraph 37 of the Complaint.

38. MTA Defendants deny the allegations in Paragraph 38 of the Complaint.

39. MTA Defendants deny the allegations in Paragraph 39 of the Complaint.

40. MTA Defendants admit the allegations in Paragraph 40 of the Complaint.

41. MTA Defendants deny the allegations in Paragraph 41 of the Complaint.

42. MTA Defendants deny the allegations in Paragraph 42 of the Complaint.

43. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Complaint.

44. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the Complaint.

45. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45 of the Complaint.

46. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Complaint.

47. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47 of the Complaint.

48. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48 of the Complaint.

49. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49 of the Complaint.

50. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50 of the Complaint.

51. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51 of the Complaint.

52. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52 of the Complaint.

53. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53 of the Complaint.

54. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54 of the Complaint.

55. In response to Paragraph 55 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

56. Paragraph 56 states a conclusion of law to which no response is required.

57. MTA Defendants deny the allegations in Paragraph 57 of the Complaint.

58. Paragraph 58 states a conclusion of law to which no response is required.

59. Paragraph 59 states a conclusion of law to which no response is required.

60. Paragraph 60 states a conclusion of law to which no response is required.

61. In response to Paragraph 61 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

62. MTA Defendants deny the allegations in Paragraph 62 of the Complaint.

63. MTA Defendants deny the allegations in Paragraph 63 of the Complaint.

64. In response to Paragraph 64 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

65. MTA Defendants deny the allegations in Paragraph 65 of the Complaint.

66. MTA Defendants deny the allegations in Paragraph 66 of the Complaint.

67. In response to Paragraph 67 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

68. MTA Defendants deny the allegations in Paragraph 68 of the Complaint.

69. MTA Defendants deny the allegations in Paragraph 69 of the Complaint.

70. MTA Defendants deny the allegations in Paragraph 70 of the Complaint.

71. In response to Paragraph 71 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

72. MTA Defendants deny the allegations in Paragraph 72 of the Complaint.

73. MTA Defendants deny the allegations in Paragraph 73 of the Complaint.

74. MTA Defendants deny the allegations in Paragraph 74 of the Complaint.

75. MTA Defendants deny the allegations in Paragraph 75 of the Complaint.

76. In response to Paragraph 76 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

77. MTA Defendants deny the allegations in Paragraph 77 of the Complaint.

78. MTA Defendants deny the allegations in Paragraph 78 of the Complaint.

79. MTA Defendants deny the allegations in Paragraph 79 of the Complaint.

80. Paragraph 80 states a conclusion of law to which no response is required.

81. In response to Paragraph 81 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

82. MTA Defendants deny the allegations in Paragraph 82 of the Complaint.

83. MTA Defendants deny the allegations in Paragraph 83 of the Complaint.

84. MTA Defendants deny the allegations in Paragraph 84 of the Complaint.

85. In response to Paragraph 85 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

86. MTA Defendants deny the allegations in Paragraph 86 of the Complaint.

87. MTA Defendants deny the allegations in Paragraph 87 of the Complaint.

88. MTA Defendants deny the allegations in Paragraph 88 of the Complaint.

89. In response to Paragraph 89 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

90. MTA Defendants deny the allegations in Paragraph 90 of the Complaint.

91. MTA Defendants deny the allegations in Paragraph 91 of the Complaint.

92. MTA Defendants deny the allegations in Paragraph 92 of the Complaint.

93. In response to Paragraph 93 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

94. MTA Defendants deny the allegations in Paragraph 94 of the Complaint.

95. MTA Defendants deny the allegations in Paragraph 95 of the Complaint.

96. MTA Defendants deny the allegations in Paragraph 96 of the Complaint.

97. MTA Defendants deny the allegations in Paragraph 97 of the Complaint.

98. In response to Paragraph 98 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

99. MTA Defendants deny the allegations in Paragraph 99 of the Complaint.

100. MTA Defendants deny the allegations in Paragraph 100 of the Complaint.

101. MTA Defendants deny the allegations in Paragraph 101 of the Complaint.

102. MTA Defendants deny the allegations in Paragraph 102 of the Complaint.

103. MTA Defendants deny the allegations in Paragraph 103 of the Complaint.

104. MTA Defendants deny the allegations in Paragraph 104 of the Complaint.

105. MTA Defendants deny the allegations in Paragraph 105 of the Complaint.

106. MTA Defendants deny the allegations in Paragraph 106 of the Complaint.

107. MTA Defendants deny the allegations in Paragraph 107 of the Complaint.

108. MTA Defendants deny the allegations in Paragraph 108 of the Complaint.

109. MTA Defendants deny the allegations in Paragraph 109 of the Complaint.

110. MTA Defendants deny the allegations in Paragraph 110 of the Complaint.

111. MTA Defendants deny the allegations in Paragraph 111 of the Complaint.

112. In response to Paragraph 112 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

113. MTA Defendants deny the allegations in Paragraph 113 of the Complaint.

114. MTA Defendants deny the allegations in Paragraph 114 of the Complaint as to Defendant MTA; MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations regarding Defendant City of New York in Paragraph 114 of the Complaint.

115. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 115 of the Complaint.

116. MTA Defendants deny the allegations in Paragraph 116 of the Complaint.

117. Paragraph 117 states a conclusion of law to which no response is required.

118. Paragraph 118 states a conclusion of law to which no response is required.

119. Paragraph 119 states a conclusion of law to which no response is required.

120. In response to Paragraph 120 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

121. MTA Defendants deny the allegations in Paragraph 121 of the Complaint.

122. MTA Defendants deny the allegations in Paragraph 122 of the Complaint.

123. MTA Defendants deny the allegations in Paragraph 123 of the Complaint.

124. In response to Paragraph 124 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

125. MTA Defendants deny the allegations in Paragraph 125 of the Complaint.

126. MTA Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 126 of the Complaint.

127. MTA Defendants deny the allegations in Paragraph 127 of the Complaint.

128. MTA Defendants deny the allegations in Paragraph 128 of the Complaint.

129. In response to Paragraph 129 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

130. MTA Defendants deny the allegations in Paragraph 130 of the Complaint.

131. MTA Defendants deny the allegations in Paragraph 131 of the Complaint.

132. In response to Paragraph 132 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

133. MTA Defendants deny the allegations in Paragraph 133 of the Complaint.

134. MTA Defendants deny the allegations in Paragraph 134 of the Complaint.

135. MTA Defendants deny the allegations in Paragraph 135 of the Complaint.

136. In response to Paragraph 136 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

137. MTA Defendants deny the allegations in Paragraph 137 of the Complaint.

138. MTA Defendants deny the allegations in Paragraph 138 of the Complaint.

139. MTA Defendants deny the allegations in Paragraph 139 of the Complaint.

140. MTA Defendants deny the allegations in Paragraph 140 of the Complaint.

141. MTA Defendants deny the allegations in Paragraph 141 of the Complaint.

142. In response to Paragraph 142 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

143. MTA Defendants deny the allegations in Paragraph 143 of the Complaint.

144. MTA Defendants deny the allegations in Paragraph 144 of the Complaint.

145. MTA Defendants deny the allegations in Paragraph 145 of the Complaint.

146. MTA Defendants deny the allegations in Paragraph 146 of the Complaint.

147. MTA Defendants deny the allegations in Paragraph 147 of the Complaint.

148. In response to Paragraph 148 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

149. MTA Defendants deny the allegations in Paragraph 149 of the Complaint.

150. MTA Defendants deny the allegations in Paragraph 150 of the Complaint.

151. In response to Paragraph 151 of the Complaint, MTA Defendants repeat, reiterate, and reallege every response set forth above as if fully set forth herein.

152. MTA Defendants deny the allegations in Paragraph 152 of the Complaint.

153. MTA Defendants deny the allegations in Paragraph 153 of the Complaint.

AFFIRMATIVE DEFENSES

AS FOR A FIRST AFFIRMATIVE DEFENSE

1. The Amended Complaint fails to state a claim upon which relief can be granted.

AS FOR A SECOND AFFIRMATIVE DEFENSE

2. Plaintiff's claims are barred in part by a failure to comply with conditions precedent to suit.

AS FOR A THIRD AFFIRMATIVE DEFENSE

3. The MTA Defendants did not intentionally or knowingly deprive Plaintiffs of any right guaranteed by the United States Constitution or any statute set forth in the Complaint, and all actions by MTA Defendants were undertaken reasonably, properly, lawfully, and in good faith and

in the performance of their official duties, and in the reasonable belief that their actions were lawful and authorized.

AS FOR A FOURTH AFFIRMATIVE DEFENSE

4. Any injury or damages suffered by Plaintiffs was the result of an independent intervening cause, and not the result of any alleged actions or omissions by the MT Defendants.

AS FOR A FIFTH AFFIRMATIVE DEFENSE

5. MTA Defendants are immune from suit with respect to Plaintiff's claims brought under 42 U.S.C. § 1983 in accordance with the doctrine of qualified immunity.

AS FOR A SIXTH AFFIRMATIVE DEFENSE

6. Any state law claims alleged against Defendants should be barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

AS FOR A SEVENTH AFFIRMATIVE DEFENSE

7. Any verdict in the within action for past or future loss of earnings or other economic loss should be reduced by the amount that any such expense that has or will with reasonable certainty be replaced or indemnified in whole or in part from any collateral source.

AS FOR AN EIGHTH AFFIRMATIVE DEFENSE

8. There was probable cause for Plaintiffs' arrests, detentions, and prosecutions.

WHEREFORE, Defendants request judgment denying Plaintiffs' request for relief, together with such other and further relief as the Court deems just and proper.

Dated: September 14, 2021
New York, New York

By: 

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